

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Federal-State Joint Board on Universal Service)	
)	
)	
Dobson Cellular Systems, Inc.)	CC Docket No. 96-45
)	
Petition for Waiver of Sections 54.313 and 54.314 of the Commission's Rules)	

**DOBSON CELLULAR SYSTEMS, INC.
PETITION FOR WAIVER OF SECTIONS 54.313 AND 54.314
OF THE COMMISSION'S RULES**

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May 9, 2005

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SUMMARY

Dobson Cellular Systems, Inc. (“Dobson”) hereby requests waiver of Sections 54.313 and 54.314 of the Commission’s Rules to enable Dobson to receive high-cost universal service support commencing September 21, 2004, the date upon which the Michigan Public Service Commission (“MPSC”) granted Dobson’s application for designation as a competitive eligible telecommunications carrier (“ETC”) in certain areas of Michigan. Without the requested waiver, Dobson will not be eligible to receive support until the first quarter of 2005, over three months after its designation as an ETC. Because of the timing of Dobson’s ETC designation, Dobson cannot benefit from the recent revisions to the Commission’s rules.

Grant of the requested waiver will be consistent with the Commission’s well-established precedent. It will also be consistent with the spirit of the Commission’s March 17, 2005 *Report and Order* amending 47 C.F.R. §§ 54.313 and 54.314 to ensure that support flows immediately to newly designated ETCs. Most importantly, grant of the requested waiver will advance the public interest and benefit consumers in rural and high-cost areas of Michigan by promoting the provision of universal service.

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Service)	CC Docket No. 96-45
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DOBSON CELLULAR SYSTEMS, INC.'S)	
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Petition for Waiver of Sections 54.313 and)	
54.314 of the Commission's Rules)	

To: Wireline Competition Bureau

**DOBSON CELLULAR SYSTEMS, INC.
PETITION FOR WAIVER OF SECTIONS 54.313 AND 54.314
OF THE COMMISSION'S RULES**

PETITION FOR WAIVER

Dobson Cellular Systems, Inc. ("Dobson"), by its counsel and pursuant to 47 C.F.R. §§ 1.3 and 1.925(b), hereby requests waiver of Sections 54.313 and 54.314 of the Rules of the Federal Communications Commission ("Commission").¹ Specifically, Dobson requests waiver of the state certification and filing requirements set forth in 47 C.F.R. §§ 54.313 & 54.314 to enable Dobson to receive high-cost universal service support commencing September 21, 2004, the date upon which the Michigan Public Service Commission ("MPSC") granted Dobson's Application for designation as a competitive eligible telecommunications carrier ("ETC") in the State of Michigan.²

¹ 47 C.F.R. §§ 54.313 & 54.314

² *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier*, Case No. U-14257, Order (rel. Sept. 21, 2004) ("*Dobson Michigan Order*") (attached as **Exhibit A** hereto).

I. BACKGROUND

Dobson is a provider of commercial mobile radio service (“CMRS”) in the State of Michigan. On September 1, 2004, Dobson filed an Application with the MPSC seeking designation as a competitive federal ETC in certain areas in Michigan.³ In support of its Application, Dobson certified that it would utilize all federal high-cost universal service support that it received in 2004 and 2005 only for the provision, maintenance, and upgrading of the facilities and services for which the support is intended pursuant to Section 254(e) of the Telecommunications Act of 1996 (the “Act”).⁴ On September 21, 2004, the MPSC issued an Order designating Dobson as a competitive ETC throughout its requested service areas. By letter dated September 23, 2004, the MPSC certified Dobson’s use of federal high-cost universal service support in Michigan for the 2005 calendar year to the Commission and the Universal Service Administrative Company (“USAC”).⁵

To ensure full compliance with sections 54.313(c) and 54.314(c), Dobson subsequently requested that the MPSC file a supplemental certification with the Commission and USAC certifying the Company’s use of federal universal service support from the date of Dobson’s ETC designation (*i.e.*, September 21, 2004) through December 31, 2004. In support of its request, Dobson certified that all federal high-cost universal service support received by the Company for the 2004 calendar year would be used only for the provision, maintenance and

³ *Application of Dobson Cellular Systems, Inc. for Designation as an Eligible Telecommunications Carrier*, Case No. U-14257, Application (filed Sept. 1, 2004) (“Application”).

⁴ See **Exhibit B**, ¶8 attached hereto.

⁵ See **Exhibit C** attached hereto.

upgrading of facilities and service for which the support is intended.⁶ In response to Dobson's request, MPSC Staff advised Dobson's counsel that the MPSC's standard procedure is not to issue supplemental certifications as provided for in 47 C.F.R. sections 54.313(c) and 54.314(c) but, rather, to wait until a newly designated carrier files a petition for waiver with the Commission and then file comments.⁷

Accordingly, Dobson files this petition seeking to qualify for receipt of high-cost universal service support beginning September 21, 2004, the date the Company was designated as a federal ETC in Michigan. Dobson seeks a waiver of the annual state certification requirements set forth in sections 54.313 and 54.314 of the Commission's Rules which would otherwise require that the State of Michigan file a certification of Dobson's use of high cost funds on or before April 1, 2004 (over five months *before* Dobson was designated an ETC) to allow Dobson to qualify for receipt of federal universal service support during the third and fourth quarters of 2004. Waiver of these rules will enable Dobson to begin to receive federal universal service support commencing as of the date of its designation as a competitive ETC in the State of Michigan.

Under sections 54.313 and 54.314, if a State intends for the incumbent and competitive ETCs within its jurisdiction to receive federal high-cost universal service support, it must file an annual certification with the Commission and USAC stating that all federal high-cost support will be used by the companies only for the provision, maintenance, and upgrading of facilities

⁶ See **Exhibit D** attached hereto.

⁷ See, e.g., Reply Comments of the Michigan Public Service Commission on Centennial Michigan Waiver Petition, CC Docket No. 96-45 (filed Dec. 17, 2004). In that case, WCB found that no supplemental certification was necessary. See *Centennial Michigan Waiver Order*, 19 FCC Rcd 15587, 15590 ¶7 (2004).

and services for which the support is intended.⁸ To qualify for receipt of high-cost universal service support beginning in the first quarter of a given year, an ETC must be certified by the State on or before October 1 of the prior calendar year.⁹ Certifications for the second through fourth quarters of a year must be received by January 1 of the current year, while certifications for the third and fourth quarters must be received by April 1.¹⁰ Finally, certifications for only the fourth quarter must be received by July 1 of that year.¹¹

In this case, Dobson was not designated as an ETC in the State of Michigan until September 21, 2004, over five months *after* the April 1, 2004 deadline for filing the required certification in order to receive universal service support for the third and fourth quarters of 2004. Under these circumstances, it is appropriate for the Commission to grant Dobson's waiver request.

II. REQUEST FOR WAIVER

The Commission's Rules expressly provide for waiver of any Rule if good cause is first established.¹² In addition, section 1.925(b)(3) provides for a waiver where it is shown that

- (i) The underlying purpose of the rule(s) would not be served or would be frustrated by the application to the instant case, and that a grant of the requested waiver would be in the public interest; or
- (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has

⁸ 47 C.F.R. §§ 54.313(a) and 54.314(a).

⁹ 47 C.F.R. §§ 54.313(d)(3)(i) & 54.314(d)(1).

¹⁰ 47 C.F.R. §§ 54.313(d)(3)(ii)-(iii) & 54.314(d)(2)-(3).

¹¹ 47 C.F.R. §§ 54.313(d)(3)(iv) & 54.314(d)(4).

¹² 47 C.F.R. § 1.3.

no reasonable alternative.¹³

Consistent with these Rules, the Commission “may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest.”¹⁴

In this case, strict adherence to the state certification requirements set forth in Sections 54.313 and 54.314 would create the unintended consequence of preventing Dobson from receiving federal high-cost universal support for the entire calendar year 2004, even though the Company was designated and providing service as a competitive ETC effective September 21, 2004. Thus, Dobson would not receive timely and appropriate universal service support payments despite the fact that it was operating as an ETC and providing the supported services in Michigan from September 21 through December 31, 2004.

Granting the requested waiver will advance the public interest and benefit consumers in rural and high-cost areas of Michigan by promoting the provision of universal service. It will also be consistent with the Commission’s numerous prior orders in which it has granted waivers to newly designated ETCs. Indeed, the Commission acknowledged the importance of ensuring that newly designated ETCs receive support from the date of their designation in its recent revisions to sections 54.313 and 54.314.¹⁵ Although the timing of Dobson’s ETC designation prevents it from availing itself of the revised rules, the rationale for the rule change supports waiver in this case.

¹³ 47 C.F.R. § 1.925(b)(3).

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁵ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, FCC 05-46, ¶¶87-92 (rel. March 17, 2005) (“*ETC Order*”).

A. The Limited Waiver Dobson Seeks Will Advance the Commission's Universal Service Goals

Granting Dobson's request for waiver of the state certification requirements set forth in sections 54.313 and 54.314 will further the Commission's public policy goals of bringing access to mobile telecommunications technologies to all citizens by enabling Dobson to receive support for the provision, maintenance, and upgrading of facilities and services commensurate with its service as a competitive ETC. Without timely access to this support, Dobson cannot fully begin to fulfill the promises of the Act: "[t]o promote competition and reduce regulation in order to secure lower prices and higher quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."¹⁶

Furthermore, the Commission has found that "competitively neutral access to support is critical to ensuring that all Americans have access to affordable telecommunications."¹⁷ Denying support to Dobson, a competitive ETC, for the third and fourth quarters of 2004 merely because of the timing of Dobson's ETC designation would undermine the Commission's goal of competitive neutrality.¹⁸

¹⁶ Pub. L. No. 104-104, 110 Stat. 56 (1996).

¹⁷ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432, ¶¶89-90 (rel. Nov. 2, 1999), *rev'd in part and remanded in part*, *Qwest Corp. v. FCC*, 258 F.3d 1191 (10th Cir. 2001).

¹⁸ *See Federal-State Joint Board on Universal Service, Centennial Cellular Tri-State Operating Partnership, Centennial Claiborne Cellular Corp., Petition for Waiver of Section 54.313(d) of the Commission's Rules and Regulations*, CC Docket No. 96-45, Order, 19 FCC Rcd 15587, ¶9 (rel. Aug. 16, 2004) ("Centennial Order"); *Federal-State Joint Board on Universal Service, Grande Communications, Inc. Petition for Waiver of Sections 54.307 and 54.314 of the Commission's Rules and Regulations*, CC Docket No. 96-45, Order, 19 FCC Rcd 15580, ¶10 (rel. Aug. 16, 2004) ("Grande Order").

Universal service funding is vital to Dobson’s ability to carry out its mission as a competitive ETC in Michigan because it will allow Dobson to pursue the construction and upgrading of its network to better serve customers within its designated ETC service areas. Dobson should not be unfairly handicapped, stalled, or otherwise delayed in pursuing its mission as an ETC by the strict application of rules that were never intended to undermine the purpose of an ETC designation. Dobson should not be denied several months worth of high-cost universal service support to which it is otherwise entitled simply because of the timing of its ETC designation in Michigan – over three months *after* the April 1, 2004 filing deadline.

B. The Limited Waiver Dobson Seeks is Consistent with Commission Precedent

The limited waiver that Dobson seeks is fully consistent with, and well supported by, established Commission precedent. Indeed, the Commission has granted numerous similar waiver requests.¹⁹ In granting such waivers, the Commission has identified an ETC designation date as being a “special circumstance” that warrants a limited waiver to allow a new ETC to file retroactive certifications so that ETC support can timely commence.²⁰ Further, in granting a waiver to the State of West Virginia for the late filing of its certification for non-rural ETCs, the Commission reasoned that “the potential harm that would be suffered by customers [of the

¹⁹ See, e.g., *Federal-State Joint Board on Universal Service, N.E. Colorado Cellular, Inc., Petition for Waiver of Section 54.314(d) of the Commission’s Rules*; CC Docket No. 96-45, Order, 18 FCC Rcd 15595 (2003) (“*N.E. Colorado Order*”); *Federal-State Joint Board on Universal Service, Guam Cellular and Paging, Inc., Petition for Waiver of Section 54.314 of the Commission’s Rules and Regulations*, CC Docket No. 96-45, Order, 18 FCC Rcd 7138 (2003) (“*Guam Cellular Order*”); *Federal-State Joint Board on Universal Service, RFB Cellular, Inc., Petition for Waiver of Section 53.314(d) and 54.307(c) of the Commission’s Rules and Regulations*, CC Docket No. 96-45, Order, 17 FCC Rcd 24387 (2002) (“*RFB Order*”); *Centennial Order, Grande Order*. See also *ETC Order*, ¶89 (noting that the Commission has granted waivers of certification filing deadlines).

²⁰ *N.E. Colorado Cellular Order*, ¶6; *Guam Cellular Order* ¶6; *RFB Order*, ¶8; *Centennial Order*, ¶8; *Grande Order*, ¶9.

ETC...] justifies a waiver” and found that the loss of three months worth of universal service funding in similar circumstances would be “egregious.”²¹ In this case, absent a waiver, Dobson will lose more than three months of universal service funding.²²

C. **The Limited Waiver Dobson Seeks is Consistent With the Spirit of the Commission’s March 17, 2005 ETC Order**

Six months after Dobson’s designation as an ETC in Michigan and the Michigan PSC’s certification filing, the Commission released its March 17, 2005 *ETC Order* concerning various aspects of the ETC designation process. In the *ETC Order*, the Commission specifically noted that, due to the timing of their ETC designation date, newly designated ETCs may be unable to comply with the certification filing requirements.²³ The Commission further noted that, in such a case, the ETC could “suffer significant delay in receipt of support.”²⁴ As described herein, Dobson faces the precise problem the Commission described in the *ETC Order*.

In the *ETC Order*, the Commission specifically sought to address this problem by promulgating a series of new rules deeming newly designated ETCs eligible for support effective as of their ETC designation date, provided that the required certifications are filed within 60 days of the carrier’s ETC designation.²⁵ These amendments to the Commission’s Rules will become

²¹ *Federal-State Joint Board on Universal Service, West Virginia Public Service Commission, Request for Waiver of State Certification Requirements for High-Cost Universal Service Support for Non-Rural Carriers*, CC Docket No. 96-45, Order, 16 FCC Rcd 809, ¶7 (2001).

²² Dobson was designated during the third quarter of 2004. Based on the MPSC’s certification on September 23, 2004 (prior to the October 1, 2004 filing deadline), Dobson became eligible for support beginning in the first quarter of 2005. 47 C.F.R. §§ 54.313(d)(3)(i) and 54.314(d)(1).

²³ *ETC Order*, ¶¶89, 91.

²⁴ *Id.*, ¶91.

²⁵ *Id.*, ¶92, App. A (new sections 54.313(d)(3)(vi) and 54.314(d)(6)(iv)).

effective 30 days after publication in the Federal Register.²⁶ Such publication has not yet occurred, and so the rules are not yet effective. If they were effective, they would provide the relief requested herein, but because of the timing of Dobson's ETC designation, the new rules promulgated do not eliminate the need for a waiver. The period in question – September 2004 through December 2004 – is well before the new rules will become effective.

Nevertheless, the rationale for the revisions to the rules provide additional support for Dobson's request for waiver of the certification requirements of Section 54.313 and 54.314. In the *ETC Order*, the Commission recognized the timing problems that have arisen with regard to ETC designation and remedied them; this waiver request merely asks the Commission to provide Dobson similar relief.

D. Supplemental Certification is Not a Prerequisite to Granting Dobson's Request for Waiver of Rules 54.313 and 54.314

A supplemental certification filed by the MPSC is not required for the Commission to grant Dobson's waiver request, nor is it determinative that the MPSC declined to file such a certification.²⁷ This is particularly true where the Commission's grant of the waiver allows an ETC to receive universal service support for the third and fourth quarters of the year in which it was designated.²⁸ In fact, the Commission granted two waiver requests of Centennial Cellular on facts nearly identical to those presented in Dobson's Petition.

²⁶ *Id.*, ¶109; 47 C.F.R. § 1.427(a).

²⁷ *See Centennial Order, supra* ¶¶ 6-7.

²⁸ *Id.*

In *Centennial Cellular*, the Mississippi Public Service Commission (“Mississippi PSC”) designated Centennial as an ETC on September 24, 2003.²⁹ On September 29, 2003, the Mississippi PSC certified Centennial’s use of high-cost support for 2004 with the Commission and USAC. On November 4, 2003, Centennial filed a request for waiver of the April 1, 2003 certification filing deadline so that it could receive support beginning September 24, 2003, the date of its ETC designation in Mississippi. The Mississippi PSC did not file a supplemental certification pursuant to 54.313(c) and 54.314(c) prior to Centennial’s filing of its petition. In response to Centennial’s petition, CenturyTel, Inc. (“CenturyTel”) filed comments in opposition arguing, among other things, that the petition was inappropriate because the Mississippi PSC had not filed a supplemental certification.³⁰

The Commission summarily dismissed CenturyTel’s opposition stating:

[W]e find that the Mississippi Commission does not need to file a supplemental certification for September 24, 2003, to December 31, 2003, as suggested by CenturyTel. The Mississippi Commission’s certification dated September 29, 2003 stated that Centennial would use high-cost support in the year 2004 “only for the provision, maintenance and upgrading of facilities and services for which the support is intended.” Any universal service funding that Centennial may receive for the third and fourth quarters of 2003 as a result of this waiver order will actually be distributed to Centennial during 2004. Therefore, we conclude that the Mississippi Commission’s September 29, 2003 certification applies to those funds as well as other funds received by Centennial during 2004.³¹

In granting a similar waiver petition filed by Centennial for the State of Michigan, the Commission followed the same rationale.³²

²⁹ *Id.*, ¶ 4.

³⁰ *Id.*, ¶ 7.

³¹ *Id.* (internal citations omitted) (emphasis added).

³² *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Public Notice, 16 FCC Rcd 16121, n. 3 (2004) (specifically referencing the Commission’s analysis in the *Centennial Order*).

The circumstances surrounding Dobson's ETC designation are nearly identical to Centennial's ETC designations in Mississippi and Michigan. Because Dobson did not receive its ETC designation until September 21, 2004, the MPSC could not have met, under any circumstances, the April 1, 2004 certification filing deadline so that Dobson could receive federal universal service support beginning in the third quarter of 2004.³³ Moreover, the universal service funding that Dobson will receive for the third and fourth quarters of 2004 will not be distributed to the Company until 2005. Accordingly, the MPSC's September 21, 2004 certification should apply to the those funds as well as any other funds received by Dobson during 2005.³⁴

III. CONCLUSION

For the foregoing reasons, the Commission should grant Dobson's request for waiver of the state certification requirements set forth in 47 C.F.R. §§ 54.313 and 54.314 and allow Dobson to begin receiving universal service support for the Company's designated service areas in Michigan effective September 21, 2004. To do otherwise would deprive Dobson of much needed high-cost universal service support for the entire calendar year of 2004, even though the Company began providing service as an ETC effective September 21, 2004.

³³ See *Centennial Order*, ¶ 8 (noting that even if the Mississippi PSC had attempted to file a certification for Centennial's use of universal service support for 2003, it would not have been able to file the required certification by the April 1, 2003 filing deadline).

³⁴ See *id.*, ¶ 7 (noting that any universal service support received by Centennial for the third and fourth quarters of 2003 would not be distributed to the Company until 2004 and concluding "that the Mississippi Commission's September 29, 2003 certification applies to those funds as well as other funds received by Centennial during 2004.")

Respectfully submitted,

Dated: May 9, 2005

WILKINSON BARKER KNAUER LLP

By: _____ /s/

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Its Counsel

EXHIBIT A

September 21, 2004 Order Designating Dobson as an ETC in the Designated Areas

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of)
DOBSON CELLULAR SYSTEMS, INC., for)
designation as an eligible telecommunications)
carrier.)
_____)

Case No. U-14257

At the September 21, 2004 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. J. Peter Lark, Chair
Hon. Robert B. Nelson, Commissioner
Hon. Laura Chappelle, Commissioner

ORDER

On September 1, 2004, Dobson Cellular Systems, Inc. (Dobson), filed an application, pursuant to Section 214(e)(2) of the federal Communications Act of 1934, as amended, 47 USC § 214(e)(2), for designation as an eligible telecommunications carrier (ETC) for purposes of universal service fund support. Dobson explains that on December 22, 2003, Dobson, NPI-Omnipoint Wireless, LLC (NPI)¹, and NOW Licenses, LLC, entered into an asset purchase agreement under which Dobson agreed to purchase substantially all of the operating and other assets of NPI. NPI also agreed to assign to Dobson all of its customer subscriber agreements in the state of Michigan. According to the application, this transaction closed June 17, 2004, at which time NPI ceased

¹ On August 26, 2003, the Commission issued an order in Case No. U-13714 designating NPI as a competitive ETC.

operations and Dobson commenced providing service within NPI's Federal Communication Commission (FCC) licensed service area in Michigan.

In accordance with its purchase of NPI's operating assets, Dobson is applying for ETC designation throughout the wire centers wholly contained within the service area previously served by NPI. Dobson requests that the Commission enter an order immediately designating it as a competitive ETC in the non-rural telephone company wire centers and rural telephone company study areas identified on the Exhibit D to its application. Dobson further seeks designation as a competitive ETC throughout the specific rural telephone company wire centers identified on Exhibit D, subject to the FCC's approval of the Commission's prior decision to redefine the service area requirement in Case No. U-13714. Finally, Dobson asserts that the Commission may act on its application without the necessity of a public hearing.

After reviewing Dobson's application, the Commission finds that it should be granted because the Commission is persuaded that ETC designation for Dobson promotes competition and is in the public interest. Moreover, the Commission concludes, as it did in its November 20, 2001 order in Case No. U-13145 that "...it need not solicit comment on the application, which would only further delay action on the application." Order, Case No. U-13145, p. 4.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1999 AC, R 460.17101 et seq.
- b. The application filed by Dobson for designation as an ETC for purposes of universal service fund support should be granted.

THEREFORE, IT IS ORDERED that the application filed by Dobson Cellular Systems, Inc., pursuant to Section 214(e)(2) of the federal Communications Act of 1934, as amended, 47 USC § 24(c)(2) for designation as an eligible telecommunications carrier for purposes of universal service fund support is granted.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ J. Peter Lark
Chair

(S E A L)

/s/ Robert B. Nelson
Commissioner

/s/ Laura Chappelle
Commissioner

By its action of September 21, 2004.

/s/ Mary Jo Kunkle
Its Executive Secretary

EXHIBIT B

Affidavit Certifying Dobson's Use of Federal Universal Service Support for 2004 and 2005

CERTIFICATION

I, the undersigned, Thomas A. Coates, do hereby certify as follows:

1. I serve as Vice-President, Corporate Development for Dobson Cellular Systems, Inc. and each of its affiliates (collectively, "Dobson").

2. I provide this certification in support of Dobson's Application for Designation as an Eligible Telecommunications Carrier ("ETC") in Michigan. Dobson is seeking designation as an ETC under Section 214(e)(2) of the Communications Act of 1934, as amended, so that it can serve the universal service needs of the consumers residing in the Designated Areas.

3. I hereby supplement the Application with additional facts not specifically set forth therein.

4. Dobson provides CMRS service to approximately 1.6 million subscribers in sixteen states. In addition to the licenses it acquired from NPI, as set forth in the Application, Dobson is currently licensed to provide CMRS throughout the following RSAs in Michigan: Michigan RSA 1 – Gogebic; Michigan RSA 3 – Emmet; Michigan RSA 5 – Manistee; and Michigan RSA 10 – Tuscola.

5. At the time of its original Application, NPI was a "telecommunications carrier" as defined in 47 U.S.C. § 153(44). Dobson is a "telecommunications carrier" as defined in Section 153(44). As of the date of closing, Dobson began providing wireless telecommunications services throughout the NPI Service Area as a common carrier. A common carrier is defined under federal law as "any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio" 47 U.S.C. § 153(10). The FCC has determined that wireless telecommunications is a common carrier service. *See* 47 C.F.R. § 20.9(a).

6. The FCC has determined that the decision to redefine the service area requirement must be made after taking into account three factors derived from the original recommendations of the Federal-State Joint Board on Universal Service ("Joint Board"). The three Joint Board factors are as follows: (1) the risk of seeking designation only in low cost, high support areas, a practice referred to as "creamskimming"; (2) any effect redefinition may have on the rural telephone company's regulatory status; and (3) any additional administrative burdens that may result from redefinition. The *NPI Order* addressed the creamskimming factor, but did not clearly address the latter two factors. In any event, the latter two factors are not present here. See *Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier In The Commonwealth of Virginia*, CC Docket 96-45, *Memorandum Opinion and Order*, FCC 03-338 ¶¶ 43-44 (rel. Jan 22, 2004) (holding that because the FCC's rules ensure that that a competitive ETC's receipt of universal service support will have no effect on the amount of universal service support available to incumbent ETCs, redefinition can not have any effect on a rural telephone company's regulatory status, and that redefinition has no effect on the rules applicable to rural telephone companies, nor does it in any other way impose administrative burdens on them).

7. For the reasons set forth in Dobson's Application and stated above, Dobson meets the criteria for ETC designation under Section 214(e) of the Act.

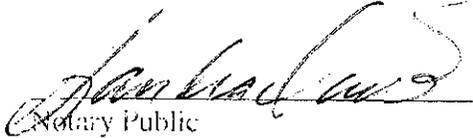
8. I am a corporate officer responsible for certifying Dobson's use of Federal High Cost Loop Support Funds (HCL), Local Switching Support (LSS) and High Cost Universal Service Support. Dobson has applied to be designated an eligible telecommunications carrier within the meaning of § 214(e) of the Federal Telecommunications Act of 1996 for the purpose of becoming eligible to receive universal service support pursuant to § 254(e) of the Act. In

compliance with the FCC's Order of November 2, 1999 and May 23, 2001 in Docket No. 96-45, as well as 47 C.F.R. §§ 54.313 and 54.314, Dobson hereby states that it will use the Federal High Cost Support Funds that it receives in 2004 and 2005 only for the provision, maintenance and upgrading of facilities and services for which the support is intended pursuant to § 254(e) of the Federal Telecommunications Act of 1996.

9. I have reviewed the Application and confirm the facts stated therein, of which I have personal knowledge, are true and correct to the best of my present knowledge, information and belief.


Thomas A. Coates

Subscribed and sworn to before me
this . . . day of September, 2004.


Notary Public

2-8-2004
03003882

EXHIBIT C

The Michigan Public Service Commission's September 23, 2004 Certification Letter



Jennifer M. Granholm
GOVERNOR

STATE OF MICHIGAN
PUBLIC SERVICE COMMISSION
DEPARTMENT OF LABOR & ECONOMIC GROWTH
DAVID C. HOLLISTER
DIRECTOR

J. Peter Lark
CHAIR

Robert B. Nelson
COMMISSIONER

Laura Chappelle
COMMISSIONER

September 23, 2004

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2000 L Street, N.W., Suite 200
Washington, D.C. 20036

Dear Ms. Dortch and Ms. Flannery:

Re: *Certification of High Cost Support for Rural Carriers Pursuant to 47 C.F.R.
Sections 54.314, CC Docket No. 96-45*

The Public Service Commission of Michigan hereby certifies that all federal high cost support provided to rural carriers in this State will be used only for the provision, maintenance and upgrading of facilities and services for which the support is intended, consistent with section 254(e) of the Communications Act of 1934, as amended. This includes High Cost Loop support (HCL), Local Switching Support (LSS) and high cost support received pursuant to the purchase of exchanges.

Attached is a list of rural carriers certified by the Michigan Public Service Commission pursuant to section 54.314 of the FCC's rules (47 C.F.R. §54.314), which requires states to establish an annual certification process for rural carriers receiving federal high cost support. As requested by the Universal Service Administrative Company, listed beside each carrier is its assigned study area code (SAC), if known.

Very truly yours,

Orjiakor N. Isigoh, Director
Telecommunications Division

ONI/cmp
Enc.

c: Dan Kearney, MPSC
Lori Towers-Hoover, MPSC

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List ABCDE

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“Adopt and issue minute dated September 21, 2004, designating the following carriers as eligible telecommunications carriers for the purpose of receiving federal universal service funds to be expended in the year 2005, consistent with the Federal Communications Commission order in CC Docket No 96-45, and the New Rate Comparability Review Criteria, as set forth in 47 CFR 54.313 and 54.314. Further, each exchange is designated as a service area for this purpose. The certification granted in this minute is conditioned upon the Commission’s reservation of its right to audit all expenditures of these universal service funds:

<u>Company</u>	<u>Service Area Code</u>
Ace Telephone Company	310704
Allendale Telephone Company	310669
AllTel Communications, Inc	319010
Baraga Telephone Company	310675
Barry County Telephone Company	310676
Blanchard Telephone Association, Inc	310678
Bloomington Telephone Co., Inc.	310679
Carr Telephone Company	310683
Centennial Michigan RSA 6 Cellular Corp.	319006
Centennial Michigan RSA 7 Cellular Corp.	319007
CenturyTel of Michigan, Inc.	310702
CenturyTel of Midwest-Michigan, Inc.	310671
CenturyTel of Northern Michigan, Inc	310705
CenturyTel of Upper Michigan, Inc	310689
Chippewa County Telephone Company	310680
Climax Telephone Company	310688
Deerfield Farmers Telephone Company	310691
Dobson Cellular Systems, Inc	319009
Drenthe Telephone Company	310692
Frontier Communications of Michigan, Inc.	310682
Hiawatha Telephone Company	310713
Kaleva Telephone Company	310703
Lennon Telephone Company	310708
MCImetro Access Transmission Services, LLC	319004
Michiana Metronet, Inc	319008
Midway Telephone Company	310711
Ogden Telephone Company	310714
Ontonagon County Telephone Company	310717
Peninsula Telephone Company	310720
Pigeon Telephone Company	310721
RFB Cellular, Inc	319001
Sand Creek Telephone Company	310725

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Springport Telephone Company	310728
TDS: Communications Corporation of Michigan	310672
TDS: Chatham Telephone Company	310685
TDS: Island Telephone Company	310677
TDS: Shiawasee Telephone Company	310726
TDS: Wolverine Telephone Company	310738
Thumb Cellular	319005
Upper Peninsula Telephone Company	310732
Waldron Telephone Company	310734
Westphalia Telephone Company	310735
Winn Telephone Company	310737

ERRATUM

On September 21, 2004, the Commission issued a Minute Action that certified carriers eligible to receive for use Federal Universal Service Funds. One service area code for the Chapin Telephone Company was not listed. The service area code and affiliated company name added to the list is:

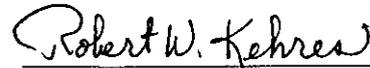
Service Area Code:

Company Name

310694

Chapin Telephone Company

MICHIGAN PUBLIC SERVICE COMMISSION



Robert W. Kehres

Director, Regulatory Affairs Division

September 23, 2004
Lansing, Michigan

EXHIBIT D

**Supplemental Affidavit Certifying Dobson's Use of Federal Universal Service Support
for 2004**

